

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BAYER HEALTHCARE LLC,

Plaintiff/
Counterclaim-Defendant,

v.

SERGEANT'S PET CARE PRODUCTS, INC.,

Defendant/
Counterclaimant.

Case No. 13-cv-2501 (JSR)
ECF CASE

**DECLARATION OF JACOB JACOBY Ph.D. IN OPPOSITION
TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

JACOB JACOBY, Ph.D., declares as follows:

1. I hold two positions. Since 1981, I have held an endowed chair as the Merchants Council Professor of Retail Management and Consumer Behavior at New York University's Leonard Stern School of Business. Since 1987, I have been President of Jacob Jacoby Research Inc., a firm specializing in conducting consumer research for the purpose of assisting in resolving litigated disputes.

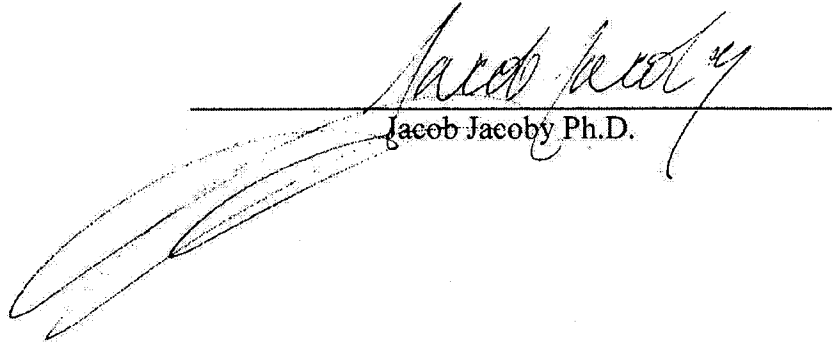
2. I was retained by counsel to Sergeant's Pet Care Products, Inc. ("Sergeant's"), Sheppard Mullin Richter & Hampton LLP, to review a survey conducted by Mr. Hal Poret of Opinion Research Corp. and provide a written evaluation of said survey and report.

3. The accompanying expert report (attached hereto as Exhibit A) details my qualifications, as well my written evaluation of Mr. Poret's survey and report.

4. I submit this declaration in opposition to Bayer's motion for a preliminary injunction. Except as otherwise stated below, I have personal knowledge of the matters set forth in this Declaration and, if called as a witness, would testify competently to those matters.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, NY on the 15th day of May, 2013.



A handwritten signature in cursive script, appearing to read "Jacob Jacoby", is written over a horizontal line. Below the line, the name "Jacob Jacoby Ph.D." is printed in a serif font.

Jacob Jacoby Ph.D.